

**REMARKS**

Claims 1-20 are pending. Claims 1-20 have been rejected under 35 USC § 102(e) as being anticipated by Shaffer et al. (US Patent No. 6,324,409).

Shaffer is directed to improving voice quality in a voice over IP network by selection of voice compression and coding techniques. The instant invention is related to transmission of modem tones between two high-speed data modems across a voice network, by overcoming the inherent characteristics of the voice network to allow the modem tones to be transmitted 'untouched.'

Claims 1 and 14 as amended, specifically disable voice compression, using only standard data compression of the modem tones. Shaffer does not address modem tones, only PSTN voice tones being transcoded into data and transmitted over a data network. See column 6, lines 22-29. Further, in Shaffer, see column 7, the negotiation for compression capability is literally, end-to-end, from one phone device to another. In contrast, claims 1 and 14, as amended, negotiate data rates between the gateways that connect the modems to the network, based upon information obtained from the endpoints by the gateways.

As Shaffer does not show, teach nor suggest that voice compression be disabled, nor that the negotiation occur between gateways, it is therefore submitted that claims 1 and 14 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 2-6 depend from claim 1 and claims 15-17 depend from claim 14. The dependent claims inherently contain all the limitations of the base claim, which are not shown by the prior art. The prior art also does not teach the further limitations of the dependent claims. It is therefore submitted that claims 2-6 and 15-17 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claim 7, as amended, requires that any voice compression be disabled, and that the channel established be a modem relay channel as defined in the claim. This is not shown, taught nor suggested by the prior art. It is therefore submitted that claim 7 is patentably distinguishable over the prior art and allowance of this claim is requested.

Claims 8 and 9 depend from claim 7 and inherently contain all of the limitations of the base claim, which is not shown by the prior art. The prior art cannot then teach the further limitations of the dependent claims. It is therefore submitted that claims 8 and 9 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 10 and 18, as amended, teach an apparatus that has a component that disables any voice compression, allowing the modem tones to be packetized untouched. As Shaffer is

directed to a system in which the compression and coding capabilities are explicitly being managed, Shaffer does not show, teach nor suggest the invention as claimed in claims 10 and 18. It is therefore submitted that claims 10 and 18 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 11-13 depend from claim 10 and claims 19-20 depend from claim 18. These claims inherently contain all of the limitations of the base claim, which is not shown, taught nor suggested by the prior art. The prior art cannot then teach the further limitations of the dependent claims. It is therefore submitted that claims 11-13 and 19-20 are patentably distinguishable over the prior art and allowance of these claims is requested.

No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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